

1 D. MAX GARDNER, ESQ. (CSB No. 132489)
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7 Attorney for Debtor

8 UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 IN RE:

Bankruptcy Case No.: 2022-12016

11 FUTURE VALUE CONSTRUCTION INC.

Chapter 11

12 Debtor and Debtor-in-possession.

DMG-1

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14 **DECLARATION OF D. MAX GARDNER IN SUPPORT OF**
15 **MOTION TO EMPLOY DEBTOR'S ATTORNEY**

16 I, D. Max Gardner declare as follows:

17 1. I am a resident of Kern County California. I make this declaration based upon my
18 own personal knowledge and could competently testify to the matters contained herein if called
19 upon to do so. I am the proposed attorney for the debtor and debtor in possession, Future Value
20 Construction, Inc. . ("Debtor").

21 2. Debtor filed a voluntary petition under Chapter 11 of the United States
22 Bankruptcy Code on November 28, 2022.

23 3. Debtor wishes to employ me as its attorney to act as bankruptcy counsel during the
24 administration of this Chapter 11 case. I have practiced bankruptcy law since 1990 and have been
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27 DECLARATION OF D. MAX GARDNER

1 a certified specialist in bankruptcy by the State Bar of California Board of Legal Specialization
2 since 1995. My current address is 930 Truxtun Ave., Suite 203 93301.

3 4. As set forth in the Motion to Employ Debtor's attorney, my roles and responsibilities
4 as attorney for the Debtor will be:

5 a. to advise and consult with Debtor during the administration of the estate concerning
6 the rights, responsibilities and remedies of the Debtor with regard to the assets of the estate
7 and the claims of secured and unsecured creditors;

8 b. to assist in preparing such pleadings, motions, notices, and orders as are required
9 for the orderly administration of this Chapter 11 case. These duties will include seeking
10 the employment of professionals, filing status reports with the Court, attending the initial
11 Debtor's interview and meeting(s) of creditors conducted by the Office of the United States
12 Trustee, filing, but not preparing, monthly operating reports, analyzing and/or objecting to
13 claims if applicable, seeking the recovery of avoidable transfers where necessary, attending
14 scheduled hearings in Court as counsel to the Debtor, filing disclosure statements and plans
15 of reorganization, and/or seeking the dismissal, conversion, and/or a final decree as may
16 be necessary to conclude the case.

17 5. The scope of my representation shall be as general bankruptcy counsel to the Debtor.

18 I shall not perform any of the following:

19 a. Accounting services. I will not audit Debtor's financial information, render tax
20 advice, prepare tax filings or prepare the monthly reports of operation.

21 b. Financial and business advice. I will not render financial advice as to the Debtor's
22 business operation nor provide advice specific to the nature of Debtor's business.

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27 DECLARATION OF D. MAX GARDNER

1 c. Third party advice. I will not provide legal advice to any of the Debtor's insiders
2 such as officers, directors, shareholders and/or members.

3 d. Non-bankruptcy litigation. I will not act as attorney to the Debtor in any litigation
4 occurring outside of this Chapter 11 case.

5 6. I believe that I am a disinterested person within the meaning of 11 U.S.C. Section
6 101(14). I disclose the following connections with Debtor, its creditors, parties in interest, their
7 attorneys and/or accountants, the United States Trustee, or any person employed by the Office of
8 the United States Trustee, or any person employed by the Office of the United States Trustee as
9 follows:
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11 a. I represented the Debtor's principal, Chuck R. Thomason, in a Chapter 11 case entitled
12 CRT Land Company. This case was on February 13, 2007. The case was dismissed on
13 March, 15, 2007. CRT Land Co. filed a second Chapter 11 case on June 4, 2008 and I
14 was counsel in that case as well. That case converted to Chapter 7.

15 b. I have attended social functions and/or have had cases involving numerous personnel
16 employed by the Office of the U.S. Trustee including Greg Powell, Jorge Gaitan, Lisa
17 Grootendorst, Joan Caskey, Robin Little, Cecilia Jiminez and Jason Blumberg.

18 c. I appear in Judge Niemann's court regularly.
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20 7. It is contemplated that compensation paid to me will be based on my normal and usual
21 hourly billing rate as described below plus reimbursement for costs incurred by my office. Any
22 compensation paid to Gardner will be paid after application and approval by the Court.

23 My normal billing rates for persons who will provide legal services to Debtor are:
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25 D. Max Gardner \$325.00 per hour

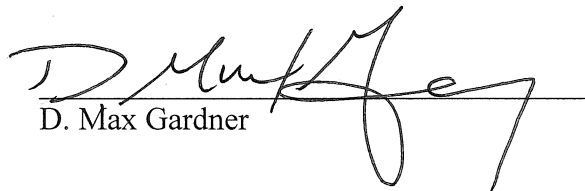
26 Legal Assistants \$75.00 per hour

27 DECLARATION OF D. MAX GARDNER

1 I will seek interim compensation during the course of this case as permitted by 11 U.S.C. Section
2 331.

3 8. Debtor paid a pre-petition retainer in the sum of \$16,710 to me on November 21,
4 2022. \$1,738 was utilized for the filing fee and \$2,087.50 was utilized for pre-petition work.
5 The balance of \$9,380 has been deposited into my client trust account and shall be utilized for
6 the payment of interim fees consistent with and as authorized by applicable bankruptcy law and
7 local rules of court. I claim a possessory security interest in the fees held in trust. I will not assist
8 Debtor in rendering a proposed plan of reorganization feasible by waiving my right to payment
9 in full ahead of Debtor's other unsecured creditors or administrative claimants. The payment of
10 further fees beyond the initial retainer shall be paid as an administrative consistent with
11 applicable bankruptcy law and local rules of court.
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13 I declare under penalty of perjury that the foregoing is true and correct and that this
14 declaration was executed on December 6, 2022, at Bakersfield, California.
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18 D. Max Gardner
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DECLARATION OF D. MAX GARDNER